

Application No. : 10/692,835  
Filed : October 23, 2003

### REMARKS

Claims 1-11, 19-32, 43, 53-58 and 60-65 were pending in the application. By this paper, Applicant has amended Claims 1, 2, 3, 5, 8, 21, 32, 53, 60, 63 and 64, and cancelled Claim 58 without prejudice. Hence, Claims 1-11, 19-32, 43, 53-57 and 60-65 are presented for examination herein.

#### *§102 Rejections*

Per the Office Action, Claims 1-2, 4-7, 9-11, 19-20, 22-25, 27-29, 31-32, 43, 53-58, and 60-64 were rejected under Section 102(b) as being anticipated by Vasko et al (US 4,683,709). In response to these rejections, Applicant provides the following remarks.

**Claim 1** – By this paper, Applicant has amended independent Claim 1 to include limitations relating to the recited saddle pad apparatus comprising a first plurality of pads disposed laterally to one side of said spine and a second plurality of pads disposed laterally to the other side of said spine, each of said pads being adapted to individually cooperate with a specific feature of the anatomy of the living subject.

As noted by the Examiner with respect to Claim 3, Vasko does not teach a plurality of pads on each side of the spine (e.g., two on each side of the spine, or four total).

Applicant also notes that Vasko in no way teaches or suggest each of the pad being adapted to individually cooperate with a specific feature of the anatomy of the subject. See, e.g., page 24, line 6 through page 25, line 30, wherein the use pads adapted to cooperate with features on the animal (e.g., the “gaps” in the withers region of the animal) is described in detail. See also Fig. 3c. Vasko is completely silent on such functionality, and in fact *teaches away* from Applicant’s invention from the standpoint that the inserts of Vasko are not shaped or positioned with respect to any artifact or feature of the subject’s anatomy other than the spine:

*“The pockets are located immediately adjacent to and on each side of the centerline so as to hold the inserts 36 and 38 parallel to and in immediate proximity to the horse’s spine. This allows the load of the rider and the accompanying shock or energy transfers to be evenly distributed along the horse’s back avoiding any undue abrasion of the thoracic spinal vertebrae”.* (Col. 3, lines 24-31) {Emphasis added}

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Applicant submits that the broad coverage (“even distribution along the horse’s back”) of the pad inserts of Vasko provide a very different function from those of Applicant’s invention of Claim 1, since there is no adaptation of the inserts of Vasko for individual cooperation with specific features (e.g., withers gaps) of the subject’s anatomy. **Vasko is in fact an exemplary instance of the prior art which Applicant’s invention was intended to overcome; i.e., non-specific shaping or placement of insert pads.** The inserts of Vasko broadly cover the back of the animal, with no strategic placement of shaping with respect to gaps or recesses formed in the animal’s back. In contrast, Applicant’s invention of Claim 1 specifically adapts a larger number (e.g., four) of inserts to particular features on the animal (e.g., withers region “gaps”), and each insert individually interacts or cooperates with, *inter alia*, a single artifact or feature.

**Claim 19** – Applicant respectfully traverses the Examiner’s Section 102 rejection of Claim 19 over Vasko, in that Vasko in no way that Applicant can see even remotely teaches or suggests a saddle pad apparatus adapted to support a saddle on a living subject during riding such that said saddle is substantially stable around a rotational axis transverse to the longitudinal axis of the spinal column of said subject, as recited in Applicant’s Claim 19. As noted in Applicant’s specification, prior art solutions (such as Vasko) do not take into account the gaps formed in high-withered animals, such gaps which contribute substantially to “rocking” or tilting of the saddle during riding. See, *inter alia*, page 24-lines 12-30 of Applicant’s specification.

Applicant submits that Vasko not only does not disclose mitigation of such gaps/tilting, but also in fact teaches away from the invention of Claim 19 by using pad inserts which run longitudinally all the way from the rear edge of the pad to the front edge of the pad; see Figs. 1 and 2 of Vasko. Regarding Fig. 8 of Vasko, only a small change in thickness is shown over the length of the insert, and there is no teaching or suggestion that Applicant can find in Vasko that this is in any way meant to mitigate the aforementioned gaps/tilting described in detail by Applicant and claimed in Claim 19. **Applicant respectfully requests that the Examiner specifically identify where in Vasko such recited functionality is taught, since the Examiner has to date provided no specific citations to this effect** (see page 3 of the Office Action, discussing Claim 19; no specific citations relevant to these limitations are provided).

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**Claim 29** – Applicant respectfully traverses the Examiner’s Section 102 rejection of Claim 19, in that Vasko in no way teaches or suggests that substantial weight redistribution of said saddle in a front-back direction is frustrated by the pad elements, as recited in Applicant’s Claim 29. Applicant can find no teaching or suggestion in Vasko that weight redistribution (aka “tilting or rocking”) is addressed or in any way controlled by the pad insert structure of Vasko. Applicant submits that a careful reading of Vasko indicates that the disclosed invention is focused entirely on shock/energy dissipation, and not weight redistribution. **Applicant respectfully requests that the Examiner specifically identify where in Vasko such recited functionality is taught, since the Examiner has to date provided no specific citations to this effect** (see page 4 of the Office Action, discussing Claim 29; no specific citations relevant to these limitations are provided).

**Claim 32** – By this paper, Applicant has amended independent Claim 32 to include limitations relating to (i) a first portion of the recited plurality of pad elements having a first shape and a second portion of the plurality of said pad elements having a second shape, and (ii) the pad elements having the first shape being adapted to interface with gaps formed in the withers region of the animal, whereas the pad elements having said second shape are adapted to interface with gaps formed in the region of the animal directly under a rear portion of the saddle.

Vasko in no way teaches or suggests and specific adaptation of the pad (inserts) to the withers region of the animal or any gaps/recesses formed therein, and in fact never even remotely discusses the withers region.

Furthermore, Vasko teaches away from Applicant’s amended Claim 32 from the standpoint that he teaches two inserts which run effectively the fore-aft length of the saddle, and hence in no way contemplates heterogeneous or mixed pad inserts as now recited in Claim 32.

**Claims 60 and 43** – By this paper, Applicant has amended Claim 60 to include limitations regarding the recited raising of the frontal portion of the saddle to mitigate tilting or rocking thereof. Specifically, Applicant notes that Vasko in no way teaches or suggests (i) adaptation for use on a high-withered animals, or (ii) use of pad (insert) elements and the saddle pad to raise a frontal portion of a saddle disposed over top of said pad element with respect to a

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withers region to mitigate tilting or rocking. While Applicant agrees that placing a pad/inserts under a saddle will raise the saddle in general with respect to the back of the animal, it does not agree that Vasko in any way contemplates raising the frontal portion of the saddle with respect to the withers to mitigate tilting or rocking of the saddle. Vasko does not even appear to recognize that the saddle may tilt or rock (especially exacerbated by high-withered animals), let alone suggest a solution for this problem.

Similarly, Applicant traverses the Examiner's rejection of Claim 43 on similar grounds; i.e., that Vasko in no way teaches or suggest tilt-inhibition or mitigation. Vasko seemingly says nothing regarding maintaining a constant saddle/pad orientation with respect to the animal.

**Claims 63 and 53** – By this paper, Applicant has amended independent Claim 63 to include limitations relating to the recited plurality of pad elements being adapted to provide a substantially uniform distribution of pressure and withers support. As previously discussed, Applicant respectfully submits that Vasko in no way teaches or suggests any kind of targeted or specific withers support (i.e., in no way addressed the gaps in this region, which are especially pronounced in high-withered animals). **Applicant notes that there is a salient distinction between merely laying a pad (and broad insert) across the back of the animal, which may happen to include the withers region (Vasko), and specifically adapting the inserts to provide targeted support for, e.g., the gaps in the withers region (Applicant's Claim 63).**

Regarding Claim 53, Applicant similarly asserts that the added limitations relating to the recited pad element being particularly shaped to substantially accommodate a particular withers region artifact on the anatomy of an animal on which the pad element and saddle pad is utilized, are in no way taught or suggested by Vasko.

### *§103 Rejections*

Based on the foregoing remarks and amendments in response to the Examiner's Section 102 rejections, Applicant submits that the Examiner's rejections of Claims 3, 8, 21, 26, 30 and 65 are rendered moot.

### *Summary*

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In sum, Applicant submits that each of the Examiner's Section 102 rejections of each independent Claim are overcome, and Section 103 rejections rendered moot, and hence all such independent Claims define novel and non-obvious statutory subject matter.

5 *Other Remarks*

Applicant hereby specifically reserves the right to prosecute claims of different or broader scope, including those of non-elected inventions, in a continuation or divisional application.

Applicant notes that any claim cancellations or additions made herein are made solely for the purposes of more clearly and particularly describing and claiming the invention and  
10 responding to the aforementioned restriction election, and not for purposes of overcoming art or for patentability. The Examiner should infer no (i) adoption of a position with respect to patentability, (ii) change in the Applicant's position with respect to any claim or subject matter of the invention, or (iii) acquiescence in any way to any position taken by the Examiner, based on such cancellations or additions.

15 Furthermore, any remarks made with respect to a given claim or claims are limited solely to such claim or claims.

If the Examiner has any questions or comments which may be resolved over the telephone, he is requested to call the undersigned at (858) 675-1670.

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Respectfully submitted,

GAZDZINSKI & ASSOCIATES

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